

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) CEW PROPERTIES, INC.,)	
d/b/a CEW GUN SALES,)	
)	
Petitioner,)	
)	
v.)	
)	Case No. CIV-18-401-C
)	
(1) UNITED STATES)	
DEPARTMENT OF)	
JUSTICE, BUREAU OF)	
ALCOHOL, TOBACCO,)	
FIREARMS, AND)	
EXPLOSIVES,)	
)	
Respondent.)	

PETITION FOR JUDICIAL REVIEW

COMES NOW Petitioner, CEW Properties, Inc. d/b/a CEW Gun Sales (hereafter, “CEW”), pursuant to 18 U.S.C. § 923(f)(3) and 27 C.F.R. § 478.78, and for its Petition for Judicial Review of administrative action of Respondent, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (hereafter, “ATF”), states as follows:

Parties and Jurisdiction

1. CEW is an arms dealer with a principal place of business located within the Western District of Oklahoma.
2. The ATF, Dallas Field Division, is the agency whose action is at issue in this case. It has a mailing address of 1114 Commerce St., Room 303 Dallas, Texas 75242.

3. CEW previously held a valid firearms dealer's license issued in January, 2004. On February 23, 2018, the ATF gave notice of the revocation of the license, pending the filing of this Petition for Judicial Review.

4. This action was initiated within sixty (60) days of CEW's final license revocation decision.

5. CEW has exhausted its administrative remedies prior to the filing of this action.

6. This Court has jurisdiction over the subject matter and over Respondent pursuant to 18 U.S.C. § 923(f)(3) and 27 C.F.R. § 478.78.

Summary of Agency Action

7. From July 20, 2017 to August 18, 2017, the ATF conducted a compliance inspection of CEW's premises.

8. On September 20, 2017, the ATF issued a Notice to Revoke or Suspend License and/or Impose a Civil Fine, alleging that the compliance inspection revealed several alleged violations as to acquisition/disposition records, background checks, and ATF Form 4473's.

9. The September 20, 2017 Notice alleged that CEW, by and through its agents and employees, willfully failed to comply with federal law and regulations relating to the sale or disposition of firearms by, *inter alia*:

- failing to record the acquisition of approximately two hundred seventy-seven (277) firearms;
- failing to record the disposition of approximately sixteen (16) firearms;

- transferring firearms to unlicensed persons on approximately seven (7) occasions;
- selling or disposing of a firearm to an unlicensed person without recording the transaction on a firearms transaction record, ATF Form 4473 on one (1) occasion;
- failing to obtain a properly completed Form 4473 from the transferee prior to making an over-the-counter transfer of a firearm to a nonlicensee on approximately five (5) occasions;
- transferring a firearm to a nonlicensee without verifying the identification document presented and noting on the Form 4473 the type of identification used on approximately two (2) occasions;
- transferring a firearm to a nonlicensee without recording required National Instant Criminal Background Check System information on the Form 4473 on approximately twenty-five (25) occasions;
- failing to sign and date the Form 4473 certifying the licensee does not know or have reason to believe the transferee is disqualified by law from receiving the firearm described on the Form on approximately ten (10) occasions; and
- failing to obtain/execute Form 4473 on approximately four (4) occasions.

10. On September 27, 2017, CEW timely requested a hearing pursuant to 18 U.S.C. § 923(f)(2) for the ATF to review the revocation action.

11. Said hearing was conducted on February 8, 2018 at the ATF Oklahoma City Area Office. The hearing was conducted by the ATF Director, Industry Operations, Dallas Field Division, Kevin Murphy. CEW was represented by counsel and present through its sole owner and president, Charles Wilson.

12. Despite evidence CEW presented showing that none of the above violations had in fact occurred (or if they did, that such violations not committed willfully) the ATF issued a final notice of revocation of CEW's firearms dealer's license on February 23, 2018.

Reasons for Judicial Review

13. 18 U.S.C. § 923(e) authorizes the Attorney General to revoke any license issued under that section if “the holder of such license has willfully violated any provision of this chapter.”

14. 18 U.S.C. § 923(f)(3) allows the revoked licensee to petition a United States District Court for *de novo* review of the agency decision.

15. Here, CEW was never notified of any violations prior to those that arose following the July-August, 2017 inspections.

16. Upon receiving notice of such alleged violations and at a hearing regarding the same, CEW presented substantive evidence that it was not, in fact, in violation of U.S. law or regulations regarding the licensing of firearms dealers—or if it was in violation, that such violations were not willful and immediately remediable.

17. The ATF nevertheless revoked CEW's firearms dealer's license under the unwarranted assumptions that such violations did occur and that they were willful.

18. The ATF's final decision revoking CEW's license was arbitrary and capricious, and not warranted by existing law.

Request for Relief

19. The appropriate corrective step is for the Court to find that the ATF has (a) failed to follow its prescribed procedure; (b) applied a determination of fact that is not supported by the evidence; and (c) taken unreasonable, arbitrary and capricious action. Consequently, the Court should reverse and remand the ATF's decision and require that the ATF reinstate CEW's firearm dealer's license in line with its prescribed procedure.

WHEREFORE, Petitioner CEW requests the Court to reverse and remand the ATF's decision and require that the ATF reinstate CEW's firearm dealer's license in line with its prescribed procedure.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'R. R. R.', with a long horizontal flourish extending to the right.

RICHARD R. RICE, OBA #15129
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